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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

SHANE SIPE, an individual

Plaintiff,

v.

MUSIC TRIBE COMMERCIAL NV INC;
DOES I through X, inclusive; ROE
CORPORATIONS I through X, inclusive,

Defendants.

Case No. 2:20-cv-00299-JCM-BNW

**AFFIDAVIT OF RUSTY SAFFORD IN
SUPPORT OF MUSIC TRIBE
COMMERCIAL NV INC.'S MOTION
FOR SUMMARY JUDGMENT**

STATE OF NEVADA)

):ss

COUNTY OF CLARK)

I, Rusty Safford, do hereby swear under penalty of perjury that the following assertions are true to the best of my knowledge and belief:

1. I am the Customer Quality Service Leader of Music Tribe Commercial, NV. Inc. in the above-entitled action. I am authorized by my employer to make this affidavit, and I make this affidavit based upon my own personal knowledge, and, if called as witness, would testify as stated herein.
2. The employment records, correspondence, and evidence disclosed and attached as Exhibits to Defendant's Motion for Summary Judgment, and referred to within this Affidavit, were made

1 contemporaneously by the HR Department of Defendant when received.

2 3. The employment records, correspondence, and evidence disclosed and attached as Exhibits to
3 Defendant's Motion for Summary Judgment, and referred to within this Affidavit, are records
4 of regularly conducted activity at Music Tribe.

5 4. It is a regular practice of Music Tribe to retain communications, emails, and employee records
6 and personnel activity.

7 5. As witness, I would testify as to the admissibility of the referenced records and documentation
8 pursuant to FRE 803(6).

9 6. Plaintiff Shane Sipe was hired as a Service Technician by Defendant Music Tribe on January
10 3, 2012. (True and correct copy of Plaintiff's Employment Agreement is attached to
11 Defendant's Motion for Summary Judgment, Exhibit B.)

12 7. Plaintiff received health insurance through Music Tribe, fully paid by Music Tribe, as shown
13 in Mr. Sipe's employment file and as admitted to during his deposition.

14 8. Plaintiff received wage increases based on annual raises and merit increases. (True and
15 correct copy of Plaintiff's promotion letters are attached to Defendant's Motion for Summary
16 Judgment, Exhibits D through G).

17 9. During all relevant time periods (February 12, 2018 through July 10, 2019), Shane Sipe was a
18 supervisor in the Repairs Department at the Music Tribe Las Vegas facility, and was properly
19 classified as exempt and paid a salary for his services.

20 10. Plaintiff was promoted to Senior Root Cause Analysis Technician on August 30, 2018. (True
21 and correct copy of Music Tribe's Offer Letter to Shane Sipe attached to Defendant's Motion
22 for Summary Judgment as Exhibit I).

23 11. The Senior Root Cause Analysis Technician position was a salaried position. (True and
24 correct copy of the Job Description for this position is attached to Defendant's Motion for
25 Summary Judgment as Exhibit J).

26 12. Plaintiff was paid \$80,000 per year in salary for his work as a Sr. Root Cause Analysis
27 Technician. (True and correct copy of the Offer Letter attached to the Motion as Exhibit I, and
28 true and correct copies of Plaintiff's pay statements are attached to the Motion as Exhibit K

and Exhibit L).

13. The job description for the Sr. Root Cause Analysis Technician position involves supervision of the technician's team, as well as management, support, and coaching. (Exhibit J).
14. As part of his position, Plaintiff supervised two or more employees. (True and correct copy of an email sent from Shane Sipe to Human Resources Manager Kelly Peck attached to the Motion as Exhibit M).
15. As part of his position, Plaintiff compiled and reported the hours and overtime worked by his team members. (True and correct copy of an email sent from Shane Sipe to Kelly Peck and Robert Pesti attached to the Motion as Exhibit N; true and correct copy of a Microsoft Teams conversation between Shane Sipe and Kelly Peck, attached to the Motion as Exhibit P).
16. As part of his position, Plaintiff was invited to leadership meetings. (True and correct copy of email from Shane Sipe to Kelly Peck, attached to the Motion as Exhibit Q).
17. Music Tribe has a program called NovaTime, where employees enter and track the hours they work. (Exhibit N).
18. Plaintiff reported the hours for his team and kept poor records of hours and overtime worked by his team members. (True and correct copy of email sent by Shane Sipe to Kelly Peck attached to the Motion as Exhibit N and Exhibit V).
19. Plaintiff sent degrading, sarcastic, and rude emails to Kelly Peck throughout his position as Sr. Root Cause Analysis Technician. (True and correct copies of emails sent by Shane Sipe to Kelly Peck attached to the Motion as Exhibit R, Exhibit W).
20. Plaintiff did not routinely receive overtime payments as an exempt salaried employee of Music Tribe. (True and correct copies of Plaintiff's pay statements attached to the Motion as Exhibit K and Exhibit L).
21. Any overtime paid to Plaintiff from February 12, 2018 through July 15, 2019 was either a special exception approved by the Human Resources Department or was an overpayment to Plaintiff that appears to have occurred based on information Mr. Sipe took it upon himself to provide to Music Tribe's HR office in Los Angeles.
22. Music Tribe terminated Plaintiff's employment on July 10, 2019. (True and correct copy of

1 Termination Letter attached to the Motion as Exhibit Y).

2 23. Music Tribe issued Plaintiff's final paycheck on July 15, 2019. (True and correct copy of Pay
3 Statement attached to the Motion as Exhibit AB).

4 24. Music Tribe's health insurance administrator sent a COBRA Rights Notification to Plaintiff
5 on July 19, 2019. (True and correct copy of COBRA letter attached to the Motion as Exhibit
6 Z).

7 25. At the time of Plaintiff's termination, his address was listed as 4201 S. Decatur Blvd, Apt
8 #2062, Las Vegas, NV 89103. (True and correct copy of COBRA letter attached to the
9 Motion as Exhibit Z).

10 26. Music Tribe sent Plaintiff's 2019 W-2 to Plaintiff's listed address of 4201 S. Decatur Blvd,
11 Apt #2062, Las Vegas, NV 89103. (True and correct copy of Plaintiff's 2019 W-2 (redacted)
12 attached to the Motion as Exhibit AA).

13 27. Music Tribe has no plan or practice of denying overtime to employees.

14 Further your affiant sayeth naught.

15 *Rusty M. Safford*
16 Rusty Safford

17 Subscribed and sworn to before me, this 14 day of December, 2020.

18
19
20 *Helen Buenrostro*
21 [Signature of Notary]

22 Helen Buenrostro
23 [Printed Name of Notary]

24 NOTARY PUBLIC
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[Notary Seal]

